

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MICHAEL MAYFIELD, on behalf of
himself and all others similarly
situated,

Plaintiff,

v.

ACE AMERICAN INSURANCE
COMPANY,

Defendant.

Civil Action No: 1:19-cv-02425-
SDG

**PLAINTIFF’S UNOPPOSED MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND CLASS COUNSEL’S FEE
PETITION**

I. INTRODUCTION

Pursuant to Fed. R. Civ. P. 23, Plaintiff Michael Mayfield respectfully moves the Court for final approval of the class action settlement (“Settlement”), which was preliminarily approved by the Court on September 15, 2021 (“September 15 Order”). A proposed order approving class-wide settlement and dismissing the case with prejudice is filed with this motion. Defendant has reviewed this motion and the proposed order and does not oppose it. No class

members have opted out of the Settlement Class and no class member has objected to the terms of Settlement.

II. BACKGROUND

The background of the case and description of the proposed Settlement are set forth in Plaintiff's Unopposed Motion for Settlement Class Certification and Preliminary Approval of Class Action Settlement filed on July 29, 2021.

As required by the Court's September 15 Order, the Settlement Administrator, RG/2 Claims, mailed the approved Class Notice ("Notice") to all 38 potential class members on October 13, 2021 with an opt-out, objection, and claims deadline of January 11, 2022. *See* Montague Decl. ¶ 11. The Settlement Administrator also posted the Notice, Settlement Agreement, and Class Counsel's fee petition to a dedicated website in accordance with the Court's Order. *Id.*, ¶ 7. Six (6) mailed notices were returned as undeliverable, one with a forwarding address and five with no forwarding addresses. Notice was remailed to five of those class members after new addresses were obtained through further research. *Id.*, ¶ 12. The Settlement Administrator has been unable to obtain a new address for the one remaining class member, despite reasonable attempts to do so. *Id.* Reminder notices with additional copies of the class notice and claims forms were mailed on November 26, 2021 and December 27, 2021 to class members who had not submitted claims by those dates. *Id.*, ¶¶ 13-14.

Twenty-seven (27) class members have submitted claims; their settlement awards total \$509,430.19, which is more than 90% of the net fund allocated to class member awards. Montague Dec. ¶ 17.¹ There have been no requests for exclusion from the class, and no objections have been received. *Id.*, ¶¶ 15-16. No class member has indicated an intent to appear at the final approval hearing.

III. EVIDENCE RELIED UPON

Plaintiffs rely on the prior submissions in this case along with the Second Affidavit of Adam J. Berger and the Declaration of Jessie Montague on behalf of RG/2 Claims, filed with the instant motion.

IV. DISCUSSION

A. The Court Should Grant Final Approval Of The Proposed Settlement.

The standard of review for final approval of a class action settlement and factors supporting final approval in this case are addressed in Plaintiff's preliminary approval motion. There have been no new developments since the

¹ One of these claims was submitted without a postmark and received after the claims deadline, and a second was postmarked and received after the claims deadline. Defendant has agreed to accept those claims, without waiving its position that any other claims that may be received would be late and invalid under the settlement and the Court's September 15 Order.

Court's September 15 Order granting preliminary approval that call into question the fairness, reasonableness, or adequacy of the Settlement.

In fact, the class member participation rate is extremely high, no class member has opted out, and no class member has raised any objection to any term of the settlement. These factors provide strong evidence supporting the fairness and reasonableness of the settlement.

There also is no indication of deficiencies in either the notice or claims process. Notice was successfully mailed to 37 of the 38 class members, and over two thirds of the class submitted claims, a more than reasonable rate for a "claims-made" settlement. Moreover, the value of the submitted claims represents over 90% of the total net settlement fund, and withholding final approval of the settlement at this time would run a significant risk of denying those class members any recovery whatsoever.

B. The Requested Attorneys' Fees And Litigation Costs Are Reasonable And Should Be Approved.

As noted in the preliminary approval motion, Class Counsel asks the Court for approval of an attorneys' fee and cost award of \$290,484.56 from the Gross Settlement Amount, which includes actual litigation costs of at least \$17,590.98 to date. Berger Aff. ¶ 30. This request is not opposed by ACE. Further, all class members were informed in the Notice that Class Counsel would seek such an

award and none have objected.

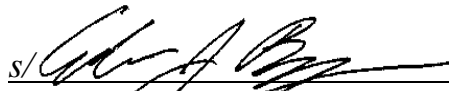
Here, Class Counsel's current lodestar fee is at least \$286,999.00, with actual litigation costs of at least \$17,593.98, including additional time and costs related to settlement administration and final approval since submission of Counsel's fee petition. *See* Pltf.'s Unopposed Pet. for Award of Attorney's Fees and Costs; Sec. Berger Aff. ¶¶ 2-3. Thus, the requested fee is less than counsel's lodestar, is reasonable and should be preliminarily approved.

V. CONCLUSION

For the foregoing reasons and the reasons stated in the Plaintiff's motion for preliminary approval, the Court should enter the accompanying proposed order, which grants final approval of the Settlement, awards attorneys' fees and litigation costs to Class Counsel, and dismisses the case with prejudice.

DATED this 25th day of January, 2022.

SCHROETER GOLDMARK & BENDER



Adam J. Berger, WSBA #20714 (admitted PHV)
Lindsay L. Halm, WSBA #37141 (admitted PHV)
401 Union Street, Suite 3400
Seattle, WA 98101
Phone: (206) 622-8000
Email: berger@sgb-law.com
Email: halm@sgb-law.com

MENZER LAW FIRM, PLLC

Matthew N. Menzer, WSBA #21665 (admitted PHV)

JohnDavid G. Toren, WSBA #48198 (admitted PHV)

705 Second Avenue, Suite 800

Seattle, Washington 98104

Phone: (206) 903-1818

Email: mnm@menzerlawfirm.com

Email: johndavid@menzerlawfirm.com

BUCKLEY BEAL, LLP

Andrew Beal

600 Peachtree Street NE, Suite 3900

Atlanta, GA 30308

Phone: (404) 781-1100

Email: abeal@buckleybeal.com

Attorneys for Plaintiff

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1

I hereby certify that this Memorandum of Law was prepared in Times New Roman 14 point font, double spaced, with a top margin of not less than 1.5 inches and a left margin of not less than one inch.

DATED this 25th day of January, 2022.

SCHROETER GOLDMARK & BENDER

s/ 

Adam J. Berger, WSBA #20714 (admitted PHV)

Lindsay L. Halm, WSBA #37141 (admitted PHV)

401 Union Street, Suite 3400

Seattle, WA 98101

Phone: (206) 622-8000

Email: berger@sgb-law.com

Email: halm@sgb-law.com

CERTIFICATE OF SERVICE

I certify that I caused to be served via the Court's ECF system a true and correct copy of this document on the following counsel of record:

MENZER LAW FIRM, PLLC

Matthew N. Menzer

JohnDavid G. Toren

705 Second Avenue, Suite 800

Seattle, Washington 98104

Email: mnm@menzerlawfirm.com

Email: johndavid@menzerlawfirm.com

Attorneys for Plaintiff

BUCKLEY BEAL, LLP

Andrew Beal

Rachel Berlin Benjamin

600 Peachtree Street NE, Suite 300

Atlanta, GA 30308

Email: abeal@buckleybeal.com

Email: rberlin@buckleybeal.com

Attorneys for Plaintiff

ALSTON & BIRD LLP

Tiffany L. Powers

H. Douglas Hinson

Emily Costin

Amanda Waide

Blake Crohan

1201 West Peachtree Street

Atlanta, GA 30309

Email: tiffany.powers@alston.com

Email: doug.hinson@alston.com

Email: emily.costin@alston.com

Email: Amanda.waide@alston.com

Email: blake.crohan@alston.com

Attorneys for Defendant

DATED at Vashon, Washington this 25th day of January, 2022.

s/ Mary Dardeau

Mary Dardeau, Legal Assistant

SCHROETER GOLDMARK & BENDER

401 Union Street, Suite 3400
Seattle, WA 98101
Phone: (206) 622-8000
Fax: (206) 682-2305
Email: dardeau@sgb-law.com